



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
)	ISCR Case No. 09-08739
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Candace L. Garcia, Esquire, Department Counsel
For Applicant: *Pro se*

April 15, 2011

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on her student loans, and she had a car repossessed when she could no longer afford the payments. She has paid about \$1,525 toward her old debts and her \$3,436 income tax refund was applied to her student loan debt. Since June 2010, she has had an action plan to address her debt, and she is likely to continue to resolve her debt to improve her credit score. Concerns that she deliberately falsified her security clearance application were not established. Clearance granted.

Statement of the Case

On April 6, 2010, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a statement of reasons (SOR) detailing the security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct, which provided the basis for its preliminary decision to deny her a security clearance and to refer the matter to an administrative judge. DOHA took action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review*

Program (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant responded to the SOR allegations on April 28, 2010, and requested a hearing. On May 14, 2010, the Government amended SOR 2.a under Guideline E to correct the date of the security clearance application that Applicant allegedly falsified, and to delete the alleged falsification of question 26.m. Applicant answered the amended allegation on June 3, 2010. On June 28, 2010, the case was assigned to me to conduct a hearing and to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On July 2, 2010, I scheduled a hearing for July 21, 2010.

I convened the hearing as scheduled. Five Government exhibits (Ex. 1-5) and nine Applicant exhibits (Ex. A-I) were admitted without objection. Applicant also testified, as reflected in a transcript (Tr.) received on July 30, 2010.

Procedural Rulings

Due to the delay in issuing the decision in this case because of my workload, I reopened the record on March 9, 2011, for Applicant to update the financial record. As of July 2010, Applicant had established an action plan to address her debts, and she was looking to reduce her living expenses. In December 2010, she notified me of a change in her address. Out of concern that the financial information for review was dated and may not be accurate, I *sua sponte* gave Applicant a deadline of March 25, 2011, to submit additional evidence. Applicant timely offered six potential exhibits (Ex. J-O), which were admitted without objection.

Findings of Fact

In the amended SOR, DOHA alleged under Guideline F, Financial Considerations, that Applicant owed delinquent debt totaling \$17,631 to nine creditors as of April 2010 (SOR 1.a-1.i). Under Guideline E, Applicant was alleged to have deliberately falsified a July 30, 2009 Electronic Questionnaire for Investigations Processing (e-QIP) by not disclosing the debt in SOR 1.f in response to question 26.n concerning any debts then over 90 days delinquent. When she answered the allegations, Applicant admitted the debts in the SOR, with the exception of SOR 1.f, which she believed was a duplicate debt of the student loan in SOR 1.g; and 1.h, which had been paid. Applicant indicated that debts in SOR 1.a through 1.e and 1.i were in a debt consolidation plan and that she was paying \$50 a month on the student loan debt in SOR 1.g. Applicant denied that she intentionally falsified her e-QIP. After considering the pleadings, transcript, and exhibits, I make the following findings of fact.

Applicant is a 29-year-old single mother with an 11-year-old daughter and a seven-year-old son. Since July 2009, she has worked as a microwave assembler for a defense contractor. (Ex. 1.) Applicant was granted an interim clearance and supported the production of a classified system for about eight months. As of July 2010, she had been

assigned to unclassified duties pending final adjudication of her security clearance eligibility. (Tr. 39.)

Applicant did not finish high school but earned her graduate equivalency diploma (GED). (Tr. 40.) She lived in subsidized housing from 2000 to 2008. (Ex. 1.) In April 2000, Applicant started working in the electronics field doing “die mount” work. In March 2001, she was laid off from her employment. Applicant was placed by a temporary agency as a proof operator at a bank for the next 2.5 years while raising her young daughter. Applicant had no benefits in her job. (Tr. 40.) Applicant stopped paying on a natural gas debt of \$489 in May 2003. Moreover, although not alleged, her August 2009 credit report (Ex. 3.) reflects a \$1,218 judgment against her in December 2003 due to nonpayment of a credit card account since October 2002.

From August 2003 to June 2004, Applicant worked as a solderer in the electronics industry. In June 2004, Applicant became a full employee of a micro-semiconductor company. She had benefits, but her hourly wage was only around \$11. (Tr. 78.) While working full-time, Applicant enrolled in a technical school in September 2004. (Ex. 1.) She took out federally-guaranteed student loans of \$2,625 and \$4,000 (SOR 1.g). Around February 2005, unbeknownst to Applicant, the school assessed a tuition debt of \$2,789 (SOR 1.f). (Ex. 2; 3.) Apparently, financial aid did not cover the cost because she failed to complete the course of study. (Tr. 56.) On April 19, 2005, Applicant paid \$1,078.86 to settle the judgment debt from December 2003. (Ex. 2.)

In November 2007, Applicant took out a loan of \$9,000 for a 2000 model-year car. She fell behind in her \$240 monthly payments in late summer 2008 (SOR 1.e), but caught up after she acquired a higher-paying job. (Ex. 3.) In October 2008, Applicant left her job, which was then paying her \$12 an hour (Tr. 60.), for a temporary placement at an engineering company at around \$20 an hour. (Tr. 40.) She returned her rent subsidy because she felt she no longer needed it.¹ (Tr. 62.) While it was the highest paying job that she had held to that point, she had no benefits. (Tr. 40.)

In July 2009, Applicant began working for her defense contractor employer at around \$21 an hour with benefits. (Tr. 40.) On July 30, 2009, she completed an e-QIP on which she responded negatively to all the financial record inquiries, including 26.n, “Are you currently over 90 days delinquent on any debt(s)?” while adding that she had a student loan (SOR 1.g) that was in deferment. (Ex. 1.)

A check of Applicant’s credit on August 6, 2009, revealed some delinquent debts, including accounts charged off or placed for collection (SOR 1.a-1.d, 1.h-1.i). Her educational debts were listed as deferred but also as late over 120 days on balances of \$2,789 (SOR 1.f) and \$3,753 (SOR 1.g). Her credit report had not been updated to show the settlement of the December 2003 judgment debt. (Ex. 2; 3.)

On October 8, 2009, an authorized investigator for the Government interviewed Applicant about her undisclosed delinquencies. Applicant explained that she failed to report

¹Her rent was \$850 per month from April 2008 until December 2010 when she moved. (Tr.62-63.) No information was presented about the extent of the rent subsidies she received.

debts because most of them were incurred more than seven years ago. Applicant was unable to provide any information regarding the accounts except the judgment, which she had paid and the student loans in SOR 1.g, which she indicated had become past due but she had resumed repayment. Applicant related that she would contact the other creditors listed on her credit record and attempt to resolve the debts. (Ex. 2.) After her interview, Applicant made some effort to reach her creditors without success. (Ex. 3.) She stopped paying on her car loan because she could not keep up with the cost of repairs, and the vehicle was repossessed (SOR 1.e).² (Tr. 54.)

As of January 12, 2010, Applicant owed \$3,798 on the student loans in SOR 1.g. She had made no payments on the tuition debt owed the school (SOR 1.h) because she was unaware that she owed a separate debt. (Tr. 69.) Equifax was also reporting collection balances on several accounts: SOR 1.b-1.d and two telephone debts not in the SOR of \$521 and \$321. (Ex. 4.) In response to an inquiry from DOHA about efforts to address her delinquent debts, Applicant turned to her employer for help. With guidance from a financial counselor affiliated with the company's employee assistance program, Applicant filed online disputes with the credit bureaus on several of the debts in the SOR to obtain information about the accounts. (Ex. 2; 5; Tr. 48.)

On January 26, 2010, Applicant was notified that her student loans in SOR 1.g could be rehabilitated if she made nine consecutive monthly payments. Subsequently, she made a first payment of \$50 on February 7, 2010. (Ex. 2; H.) She verified that her auto loan for the repossessed vehicle had an active collection balance of \$2,656.67 (SOR 1.e). She put a fraud alert on her credit record because of the \$521 wireless telephone debt that she did not recognize, and she disputed the tuition debt in SOR 1.f because she thought it was a duplicate of SOR 1.g. (Tr. 43.) She settled the \$321 telephone debt for \$50. After energy assistance payments on her natural gas account totaling \$370 in 2008, she owed a \$3,518.45 past-due balance. She paid \$100 toward the debt in SOR 1.i on February 7, 2010. (Ex. 2.)

On February 12, 2010, Applicant gave DOHA evidence of those payments. She indicated that she was looking into consolidating her remaining debt subject to its verification. Applicant attributed her omission of the debts from her e-QIP to not having any financial information with her when she completed the application, and not knowing that she had outstanding debts that would have any consequences for her employment. Applicant expressed her appreciation for the check of her credit because she had been unaware that she could dispute or fix her credit. Although she was not receiving any child support, she estimated she still had a net monthly remainder of \$299. (Ex. 2.)

On April 28, 2010, a debt consolidation firm proposed a plan to resolve her non-student loan debt totaling \$11,728 at \$193.47 per month after a \$658.54 down-payment, to be paid in two installments. (Ex. G.) She made no payment on the student loan in SOR 1.g because she needed to figure out how she could pay both the student loan and debt consolidation expense. (Tr. 57.) When the online debt consolidation firm failed to collect

² Applicant testified that she turned in the car in 2009 because it had become too expensive to maintain. (Tr. 54.) However, as of January 2010 Equifax was reporting the debt as an involuntary repossession. (Ex. 5.)

her first payment, Applicant went to a local community center for advice. A financial counselor advised her to pay the debts on her own. (Tr. 42.) After reviewing Applicant's credit report with her (Ex. A.), the financial counselor proposed a credit counseling program action plan to Applicant on June 29, 2010. (Ex. B; Tr. 42-43.) Under the plan, Applicant was to make repayment or settlement arrangements on the debts identified in SOR 1.b (credit card), 1.e (car loan), 1.f (tuition), 1.g (student loan), and 1.i (natural gas), and a \$466.81 electric bill (not alleged). Since the \$321 telephone bill (not alleged) had been paid but still appeared on her credit report, Applicant planned to request a receipt confirming satisfaction. (Ex. B.)

Effective with the school year starting September 2010, Applicant enrolled her daughter in the local public school system. (Ex. L; Tr. 80.) Her daughter had previously attended parochial school for two years at a tuition cost to Applicant of \$217 per month plus transportation. (Ex. J; Tr. 79.) Applicant worked at the school at night on Friday evenings in return for reduced tuition. (Tr. 80.) In December 2010, Applicant moved to an apartment at a monthly rent of \$990, inclusive of heating costs, which had been averaging \$350 per month. (Ex. J.)

On February 4, 2011, Applicant's federal income tax refund of \$3,436 was intercepted and applied to the student loan debt (SOR 1.g), reducing the balance to \$523.16. As of March 2011, Applicant had made some progress in resolving debts under the action plan, while other debts were still pending repayment arrangements (Ex. O.), as set forth in the following table.

Debt as alleged in SOR	Delinquency history	Status as of March 2011
1.a. Satellite television in collection \$185	Opened Aug. 2006, \$185 for collection Oct. 2008, unpaid as of Sep. 2009. (Ex. 3; 4.)	Tried to contact creditor without success. (Tr. 49.) No longer on credit report as of May 2010 (Ex. 5.); not in action plan. (Ex. O.)
1.b. Credit card charge off \$585	Opened Dec. 2006, \$300 limit, last activity Jun. 2008; \$295 charge off Oct. 2008 (Ex. M.), \$585 for collection Mar. 2009 (Ex. 3.); transferred Mar. 2010, balance \$694. (Ex. 5.)	Disputed as of Apr. 2010 (Ex. 5.) but verified; paid \$724.86 in \$124 monthly installments to settle debt in full as of Feb. 2011. (Ex. K.)
1.c. Visa credit card in collection \$2,466	Last activity Jul. 2003; for collection Jun. 2005, high credit \$1,676; \$2,466 balance Apr. 2010. (Ex. 3; 4; 5.)	Disputed as of Apr. 2010 (Ex. 5; Tr. 52.); no longer on credit report as of Mar. 2011 (Ex. M.); not in action plan. (Ex. O.)

1.d. Installment sales debt in collection \$360	Opened Mar. 2007, last activity Aug. 2007; \$360 for collection May 2009. (Ex. 3.)	Disputed as of Apr. 2010 (Ex.5.); verification pending as of Mar. 2011 (Ex. M.); not in action plan. (Ex. O.)
1.e. Car loan deficiency balance \$2,656	\$9,000 car loan taken out Nov. 2007, \$246 monthly payments; 30 days late Aug. to Oct. 2008, Jan. 2009, Jun. 2009 (Ex. 3); past due Dec. 2009 on \$8,060 balance, repossession (Ex. 4.); \$5,349 charge off Jan. 2010 (Ex. M.); \$2,656.67 in collection Feb. 2010. (Ex. 2.)	Paid \$400 Jan. 2011 to Mar. 2011 (Ex. K.); in action plan, creditor withdrew settlement offer; Applicant plans to set up repayment. (Ex. O.)
1.f. Tuition/student loan 180 days or more past due \$3,574	Opened Feb. 2005, \$2,789 high credit, last activity May 2005 (Ex. K.); \$3,511 past due as of Jul. 2009 (Ex. 3.); \$3,574 past due balance Dec. 2009 (Ex. 4.); \$3,763 balance Mar. 2011. (Ex. K.)	Disputed as of Apr. 2010 (Ex. 5.); verified as of Mar. 2011 (Ex. M.)
1.g. Federally guaranteed student loan \$3,798	Loans of \$2,625 and \$4,000 opened in Sep. 2004, payments at \$22 and \$37 per month; last activity Jul. 2007, current/deferred Jan. to Jun. 2008; balances \$1,404 and \$2,349 over 120 days as of Jul. 2009 (Ex. 3.); for collection Oct. 2009, \$3,798 balance Dec. 2009 (Ex. 4.); \$3,846 balance Apr. 2010. (Ex. 5.)	Disputed as of Apr. 2010 (Ex. 5.), but verified. Rehabilitation offer Jan. 26, 2010, nine months of consecutive payments; paid \$50 Feb. 7, 2010. (Ex. 2.) Income tax refund \$3,436 intercepted Jan. 28, 2011, applied to debt Feb. 4, 2011, balance \$523.16; paid \$100 Mar. 2011, balance \$423.44. (Ex. K; M; O.)
1.h. Natural gas in collection \$489	Original collection balance of SOR 1.i, see below.	
1.i. Natural gas in collection \$3,518	Opened Jul. 2003, \$489 in collection Aug. 2003; \$3,518 collection balance Jun. 2008 (Ex. 3.); energy assistance payments totaling \$370 2008, balance \$3,498.45 as of Jul. 2008 (Ex. 2); \$3,518.45 balance Dec. 2010. (Ex. 2; 5.)	Paid \$100 Feb. 7, 2010 (Ex. 2); balance \$3,398, in action plan as of Mar. 2011 but no further payments. (Ex. O.) Creditor wanted balance in a lump sum. (Tr. 60.)

\$321 telephone debt in collection (not alleged)	Last activity Sep. 2005; for collection May 2009, \$321.70 past due Jul. 2009. (Ex. 2; 3; 4.)	Paid \$50 in settlement Feb. 2010. (Ex. 2; K.)
\$466 electric utility debt in collection	\$416.81 in collection as of Feb. 2009. (Ex. J; K.)	Paid \$100 to bring debt to \$312.86 as of Jun. 2010 (Ex. K.); in action plan but no further payments as of Mar. 2011. (Ex. O.)

On November 5, 2010, Applicant met with the financial counselor to review her progress in addressing her debts through the action plan. (Ex. K.) After reviewing Applicant's latest credit report, the financial counselor indicated on March 22, 2011, that she needed to see more improvement in Applicant's credit score. (Ex. M.) On March 25, 2011, Applicant met with the counselor. Applicant was again directed to set up repayment plans with her remaining creditors. (Ex. O.)

The father of Applicant's children is not paying court-ordered child support at \$58 weekly on a regular basis. Applicant testified that he claims he is unemployed, although she knows otherwise. (Tr. 71-73.) However, the state sent her \$3,000 in early 2010 that they had taken from the father of her children. She used the funds to pay her daughter's school tuition for the 2009-2010 school year. (Tr. 79.)

With merit increase in her pay effective February 19, 2011, and a reclassification of her position on March 5, 2011, Applicant's annual base pay is \$46,628 (\$22.41 per hour). (Ex. J; N.) As of March 2011, Applicant was averaging about six hours of overtime per week. (Ex. J.) She had reduced her monthly living expenses by about \$527 per month, from \$1,617 to \$1,090, by moving and enrolling her daughter in public school. (Ex. J.) She drives a 2001 model-year vehicle that she bought outright for \$1,000. (Tr. 54.) Applicant does not have any daycare costs at present because her mother cares for her son. (Tr. 70.)

Applicant has been an ethical, talented assembler since she started with her current employer. Because of her dedication and professionalism, several supervisors have requested that Applicant be assigned to their team. Former and current managers have not witnessed any conduct on Applicant's part that would lead them to question her honesty or commitment to her team. Applicant has been forthcoming when issues arise on the manufacturing line, and has been willing to seek out resolution and clarification. She works overtime when asked and is considered a valuable employee by her coworkers and managers. (Ex. C-F.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484

U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern about finances is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to

protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Applicant defaulted on her school loans (SOR 1.g), and she was left with an additional bill from the school of \$2,789 (SOR 1.f) when she failed to complete the program. She was late 30 days several times on her automobile loan (SOR 1.e) starting in late summer 2008, and the vehicle was repossessed in 2009. Over the years, Applicant incurred natural gas charges of almost \$3,500 that she was unable to pay (SOR 1.h and 1.i). More recently, she had trouble paying her electric bill as well. At least one credit card account became seriously delinquent in the amount of \$585 (SOR 1.b); although her credit records also show an even larger \$2,466 unpaid balance on a Visa account (SOR 1.c) that she does not recognize and disputes on that basis. And although not alleged in the SOR, \$321 in telephone charges from September 2005, and \$416 in electric utility charges were in collection as of May 2009. AG ¶ 19(c), “a history of not meeting financial obligations,” applies. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” is also implicated in that she did not have the funds to make timely payments on those obligations.

Concerning potential factors in mitigation, AG ¶ 20(a), “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment,” cannot reasonably apply because her financial difficulties are recent and ongoing in the sense that she has to prioritize repayment and cannot satisfy them in lump sums.

AG ¶ 20(b), “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances,” applies in part. Heating and electric utility expenses are not discretionary, and from June 2004 to October 2008, her hourly wage was only \$11 to \$12. Low wages, while not an unexpected circumstance, explain her falling behind on the satellite television debt, the credit card debt in SOR 1.b, and the utility debts. Also, the failure of her children’s father to pay his court-mandated child support is not within her control. But it is difficult to give full mitigating weight to AG ¶ 20(b) where other debts became seriously delinquent (car loan, student loan in SOR 1.g) in 2009, when she was earning over \$20 an hour. Furthermore, her decision to send her daughter to parochial school for two years from September 2008 to June 2010, even at reduced tuition, is difficult to justify from a financial standpoint, even if it is understandable that she would want the best education for her child. While she was apparently unaware of most of the debts on her credit record as of her e-QIP (including the debt owed the technical school), she knew she was struggling to pay her gas bill, as she received public assistance to cover part of the expense in 2008. She also had to have known that she was going to have to resume paying her student loans in SOR 1.g once the deferment ended. As for the other debts that Applicant believed she no longer owed, her failure to keep herself up to date on the status of her debts raises concerns about her financial judgment that are not mitigated by AG ¶ 20(b).

In her favor, Applicant began looking into her debts once they were brought to her attention as an issue for her security clearance. Following her interview, she attempted to contact her creditors, albeit without much success. She then turned to her employer for help. With guidance from a financial counselor affiliated with the company's employee assistance program, Applicant filed online disputes with the credit bureaus on several of the debts in the SOR just to obtain information about the accounts. Her inquiry into rehabilitating her defaulted student loan led her to make a first payment of \$50 in February 2010. Although she did not continue with the program, she testified credibly that she needed to figure out how she could afford to pay both the student loan and the debt consolidation fee. When her first payment was not accepted by the online debt consolidation firm, Applicant sought the advice of a financial counselor affiliated with a community assistance organization. As of her hearing in July 2010, Applicant had established an action plan, but had done little to implement it.

In light of her expressed intent to follow the plan and her previous efforts to address her debts, she was given an opportunity to demonstrate her commitment to resolving her debts and to lower her living expenses. As of March 2011, she had paid about \$1,525 to her creditors. Also, by then, her income tax refund had been applied to her student loan debt. While interception of her tax refund does not implicate AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," her payments are evidence of her intent to resolve her past-due debts. AG ¶ 20(d) applies.

Applicant also demonstrated credible steps taken to improve her financial situation. She moved in December 2010 to an apartment at higher rent, from \$850 to \$990 per month, but heating costs are included so at least during the winter months, her living costs are lower. More significantly, she indicated in July 2010 that her daughter would no longer be attending private school because she could not afford it. As confirmed in Exhibit L, her daughter is enrolled in the public school system. Applicant has not incurred any new credit card debt and is managing to pay her monthly expenses. Yet, the latest update to Applicant's action plan shows that she has yet to reach repayment arrangements on some of her larger debts, most notably the school tuition debt (SOR 1.f), the gas debt (SOR 1.i), and the auto loan (SOR 1.e). The financial counselor wants to see more progress in this regard. While it would be premature to fully mitigate the financial concerns under AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," Applicant is likely to continue to address her debts if given the opportunity to earn the income needed. With a recent increase in her hourly wage, she is in a better position financially to address these debts than she has been in the past.

AG ¶ 20(e), "the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue," has only limited applicability. Applicant successfully disputed a \$521 wireless telephone debt that was not alleged in the SOR. While she admitted the credit card debt in SOR 1.c and the collection debt in SOR 1.d when she answered the SOR, she does not recognize those debts and filed online disputes. The Visa debt reportedly in collection does not appear on her recent credit reports, and verification of the collection account in SOR 1.d is

still pending. Also, the Government conceded at the hearing that the gas debt in SOR 1.h was covered in substantial part by the public assistance payments, and that Applicant's debt to the gas company is covered in SOR 1.i. AG ¶ 20(e) applies to the debts in SOR 1.c, 1.d, and 1.h in that the evidence falls short of establishing Applicant's liability for those purported debts. Concerning SOR 1.a, Applicant has been unable to reach the creditor, although given she admits that she had a satellite television account at one time, the debt may well be valid. Even so, she is likely to pay it if shown to be legitimate. With due regard to Applicant's limited income before October 2008, her ongoing support of two minor children as a single parent without regular child support income, and her efforts to address her debts since late 2009, the financial issues that persist do not now raise such concerns to warrant denial of her security clearance eligibility.

Guideline E, Personal Conduct

The security concern about personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

Applicant did not disclose any financial delinquencies on her July 2009 e-QIP. While she listed her student loan debt in SOR 1.g, she indicated it was deferred. Applicant's August 2009 credit report (Ex. 3) lists not only the disputed debts in SOR 1.c and 1.d as being in collection, but also the natural gas debt in SOR 1.i, and the \$321 telephone debt (not alleged), neither of which Applicant disputes. She was reportedly late over 120 days on the credit card debt in SOR 1.b. Applicant nonetheless denies intentional falsification, contending that she was unaware of her delinquent debts when she completed her security clearance application. Accordingly the Government has the burden of establishing the applicability of AG ¶ 16(a):

Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

A finding of intentional falsification can be inferred from omission of information that on its face should have been reported. Clearly, the debts in SOR 1.b and 1.i should have been reported in response to question 26.n, "Are you currently over 90 days delinquent on any debt(s)?" However, Applicant also indicated that she was largely unaware of what was on her credit record at the time. She was focused on her student loan debt, which she believed was deferred. Her August 2009 credit report confirms that Applicant's auto loan had not been over 90 days delinquent, and her student loan debt in SOR 1.g was considered current and in deferment by the current holder of the loan account, even though

she had been late in her payments in the past. Applicant's failure to remain apprised of her debt situation bears implications for her handling of her finances, but it also shows that she lacked the intent to conceal required under AG ¶ 16(a). Accordingly, the Personal Conduct concern was not established.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a).³ Applicant was 18 years old when she had her first child. She began working full-time three months after her daughter's birth, and while she received public housing assistance, she has been the sole financial support for herself and her children. Efforts to improve her employment prospects through some technical training left her with student loan debt when her hourly wage was between \$11 and \$12. Wanting the best for her daughter, she enrolled her in parochial school. While that decision is difficult to justify given her limited income and failure of her children's father to pay his child support, Applicant worked Friday nights at the school in return for reduced tuition. The same dedication to a better future for herself and her children is evident in her commitment to excellence at work. Project managers and supervisors attest to her services being requested by several teams because of the quality of her work. Her contributions to her defense contractor employer are not mitigating of the mismanagement of her personal finances, but they are indicative of her good character.

The DOHA Appeal Board addressed a key element in the whole-person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." However, an applicant is not required, as a matter of law, to establish that [she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrates that [she] has ' . . . established a plan to resolve [her] financial problems and taken significant actions to implement that plan.' The Judge can reasonably consider the entirety of an applicant's financial situation and [her] actions in evaluating the extent to which that applicant's plan for the reduction of [her] outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ('Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a

³The adjudicative process requires assessment of the following factors:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

determination.}') There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted). Applicant is not incurring any new credit card delinquencies. She has a plan in place to address her debts. She probably should have made more progress addressing her remaining debts after her hearing in July 2010. Yet, she did take significant steps to reduce her monthly expenses, including enrolling her daughter in public school. She has continued to meet with the financial counselor, and her debt at this point appears manageable. I am confident that she will continue to resolve her delinquent debt. Evidence of her good character indicates that she is not likely to engage in illegal acts that could jeopardize the employment that she needs to provide for her two young children.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the amended SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant

Paragraph 2, Guideline E: FOR APPLICANT

Subparagraph 2.a: For Applicant

Conclusion

In light of the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Elizabeth M. Matchinski
Administrative Judge